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AUTHOR Cuthbert, Marlene
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Despite the international success of reggae music, a survey of Jamaican recording artists revealed disillusionment, anger and frustration with the national recording industry. Various artists identified a lack of professional ethics and discipline, and above all, lack of an updated copyright law as being at the root of the problem. Since Jamaica belongs to no international copyright convention, Jamaican works are usually not protected in other countries. Paul Davidson, a singer/composer, instrumentalist, and audio engineer, recorded a song that was a European hit, but the royalties went to his producer with whom he had no formal contract--a common practice in Jamaica. Susan Cadogan had recorded an album popular in Britain and South Africa, but because her original production company sold the rights to her record to another company, and because of a subsequent legal dispute, the only royalties Susan has collected have been for air play in Britain. Vincent Morgan, who has been playing with various groups for 16 years, finds it necessary to play music for tourists to survive. He has made records, but in every case the royalties have gone the producers or the owners of the recording studio. These cases and others like them show that change is long overdue in a system that discourages talent and kills the spirit of artists who have proved their worth in the international market. (NKA)

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RECORDING ARTISTS IN JAMAICA: VICTIMS OF THE SYSTEM

Marlene Cuthbert
Department of Communication Studies
University of Windsor
Windsor, Ontario, Canada N9B 3P4

PH. (519) 253-4232, X. 2903

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RECORDING ARTISTS IN JAMAICA: VICTIMS OF THE SYSTEM[1]

Marlene Cuthbert

In many respects Jamaica's reggae has made it on the international scene. Among non-Jamaicans, artists such as Men at Work, Police, Culture Club, Tina Turner, UB40, Lionel Ritchie and others have sold a million or nearly a million copies of reggae singles.[2] The Grammy Awards began to include a reggae category in 1985. Billboard, the trade magazine named a Jamaican reggae correspondent in 1986, an appointment made in recognition of "the increasing influence of reggae music worldwide." Jamaica's annual Reggae Sunsplash Festival in Montego Bay attracts immense numbers of tourists as well as journalists and reggae bands from Europe, North America, Japan and elsewhere. Jamaica's Bunny Wailer filled Madison Square Gardens in August 86 and received a letter from Mayor Edward Koch welcoming him and saluting him for his "historic contribution to Jamaican and global culture" (Daily Gleaner, Sept. 10, 1986.) Reggae groups from Jamaica have toured the world, for example, in late 1986 several reggae artists, billed as the Taxi Connection, had a world tour which included numerous U.S. cities and Hawaii, Japan, Australia, New Zealand, India, Egypt, Middle Eastern countries, and 22 cities in Europe.

In spite of the international success, there is considerable trouble in the home of reggae. A survey conducted with 24 recording artists in Jamaica during June to August, 1986, revealed disillusionment, anger and frustration with the Jamaican music industry. Various artists identified a lack of professional ethics, lack of discipline and, above all, the lack of an updated copyright law, as being at the root of the problem.

This paper attempts to illustrate the nature of the problem by examining in some detail the effects on three of the recording artists interviewed by the author. These case studies are chosen to allow the artist's side of the story to be provided by individuals with highly developed musical sensibilities and talent who have also had international hits. Thus the sample is selected purposively rather than randomly. Any kind of representative sampling of Jamaican artists is, in fact, impossible because there is no available sample frame from which one can select systematically. The Jamaica Federation of Musicians (JFM) has only a partial listing of artists, consisting mainly of those who are financially successful enough to pay the membership and receive the limited protection of the JFM. Some of the artists who have had great success abroad in the past are no longer members because of their disillusionment about being

'ripped off' by the overall system.

Case One

Paul Davidson is a thirty-one year old singer and instrumentalist. He began to sing and play insruments from about the age of five as a result of the influence of his father who sang with a well known Jamaican group, Byron Lee and the Dragonnaires. He began with the harmonica and then played piano, drums, congos, bass and guitar. He used to see his father and other musicians at the studio and found the studio much more attractive than school so left high school in his fourth year and has worked in the studio as an audio engineer ever since.

He likes particular songs from all kinds of popular music both foreign and local. The band in which his father plays -- which has a calypso/reggae/soca sound modified for the international ear -- has influenced him most. The only foreign musicians whom he could identify as having influenced him a great deal were the Beatles. His musical taste has been influenced by the classical guitar sound which he likes to hear mixed with pop sounds. He also thinks his musical preferences were influenced by foreign lyrics and country and western music and ballads. He can't sing reggae because he doesn't have a 'rootsy' voice. In terms of identity, he feels nothing else but Jamaican, though not African, perhaps due to the fact that his ancestry is partly Indian. In his words, "dey calls me white man when I sing reggae."

Besides working as an audio engineer, Paul makes three of four jingles for ads each year, making a total income of about $6,000 U.S. He has never been a member of the Jamaica Federation of Musicians but thinks the union is useful for musicians who play in hotels which tend to treat them badly. Membership in the federation helps them get a better income and better treatment.

Paul composes his own lyrics as well as music and arranges other people's music. He has produced two albums on which thirty percent of the music and lyrics were original. He has also made more than ten 45's. He describes his music as having the drum and bass of reggae but a country and western flavor. All his recordings were national productions except for one album and one single. The single was produced by Sound Track a jointly-owned Jamaica-British company and the Jamaican label was Play Back.

For production,he used the professional local 8-track studio where he worked so had almost no expenses since his

friends played the music without charge. This, as he observed, is a very common phenomenon in Jamaica where nearly all musicians are poor. Like most Jamaican musicians, he has never used a lawyer.

Since there is no uptodate copyright law in Jamaica, Paul, like some other Jamaican recording artists, proves that he has written and produced a tape by a particular date by taking it to the Post Office to be stamped.

For an album which was released in Canada he received a flat $700 U.S. and for most of the other recordings he received royalties. However, he was badly burned by his experience with his 45 recording, "Midnight Rider." He did the song while working as audio engineer for a Jamaican producer, Pluto Shervington. Shervington liked the song, so marketed it and it became a hit. But although the recording went to Number Six in Holland and Number Eight on the British R&B charts, Paul received very little since royalties went to his producer with whom he had no formal contract. Paul has no idea how many records were produced or sold. Paul concludes that it doesn't make sense to record any more if he can't take the record to the 'top man' and cut out the middleman. In his words -- and there was pain in these words --

> I won't compromise with the system. I know I'm good. But I'm not going through nobody again. I'll sit down until I can get help to do it alone.

To add insult to injury, when Paul was invited to go to Britain, his producer, Shervington, went instead. In the case of Holland, though, people who liked his music sent a ticket direct to Paul and he went there. However, he didn't want drugs, alcohol or prostitutes (he was taken to a whole street of them), and decided he couldn't handle the big time scene without compromising himself and his music. He says he knows that "to reach to a point, there's something you have to give. When they pay you thousands of dollars, they buy you."

Case Two

The second case study concerns Susan Cadogan (her singing name), a self-taught singer who found that she had a natural love of music and the ability to mime and imitate her favorite performers. Until she was 23 her singing was confined to home and the church choir. Her favorite major singers were the soft slow soul of Diane Ross and the reggae music of the I-Threes who began as Bob Marley's back-up group. Susan is now a thirty-four year old woman who works

full time as a library assistant and, because of economic constraints, lives with her parents, a retired Methodist minister and his wife.

In the late 70's Susan made three albums and, in her words "too many 45's to mention." One reggae song which she recorded, "Hurt So Good" went silver in the United Kingdom (i.e. sold over 100,000 records) and was Number Three on the BBC 'Top of the Pops' chart and Number One on some other British charts. In addition the record went gold in South Africa where it was Number One for six weeks and sold over one half million copies.

Susan hasn't collected the gold record because, as a Jamaican singer, she wouldn't go to South Africa because of its apartheid policy. In relation to her success in Britain, she and her mother were taken to London and treated well, but she has had no royalties on the sale of the recording. The story goes like this.

She recorded the song in Jamaica at Dynamic Sounds studio. Her producer was Jamaican Lee Perry who -- as is typically the case -- refused to sign a contract with her, but took responsibility for funding, pressing, creating the master tape, labelling, distribution and promotion. He sold the record to Magnet, a white-owned British company, but was signed himself to Trojan, a black-owned British company.

When the record started to do well in London, Perry was anxious to sign with her but she already had a better contract offer from Magnet so she signed with them during her visit to London. Trojan, with whom Perry was signed, then came in and said they had rights to the record. Because of the dispute, the account was frozen by Britain's Mechanical Copyright Protection Society Limited (MCPS).

Meanwhile, Magnet sold the master to about 10 labels around the world and made money. Susan's brother saw it in Canada, for example, complete with a picture of her on the jacket, a picture of which she doesn't know the origin.

Susan has received only annual royalties for air play and use of the TV shows made of her during her U.K. visit.

Unfortunately, her copy of her contract with Magnet was burned in a fire in the office of a Jamaican lawyer to whom she had given it for comment on her return from London. She doesn't have the resources to hire a lawyer to try to resolve the dispute over rights to the proceeds from the record sales.

She has many songs ready to produce (her brother writes

most of her songs), but doesn't want to take the risk. She says that many Jamaican recording artists are afraid to make a fuss with producers because people have been threatened with knives. When asked what she would have to do to support herself entirely from music-making, she said "do live work and cabaret shows and make more recordings with honest producers."

Case Three

Vincent Morgan is a thirty-six year old singer who makes his living performing with a group, Stone Fire, in Ocho Rios, a tourist town on the north coast of Jamaica. He grew up in Linstead in central Jamaica, son of a baker and basic school teacher. He began to make music from before he can remember, at least as early as age three. His mother was a Sunday School teacher and he loved music in the church, especially singing with his three brothers in the Gospel Hall choir.

At age 16 he learned to play drums by setting up some barrels. Then he tied the top of a barrel to his legs and used a pair of sticks he had cut to play this 'drum'. He is entirely self-taught, and because popular music wasn't Christian, didn't receive encouragement from his parents. In High School he found that musical education was limited to Tchaikovsky and the school taught "nothing of our type of music." Hence in the last year of high school, he says, "music took me out of school because I don't love anything more than music."

Vincent loves all kinds of music but would like to arrange "real classical reggae songs, not just for dancing but for listening." Locally, he has been influenced by Jimmy Cliff but above all by Bob Marley whom he admires because Marley paid attention to "writing songs and having lyrics that depict real meaning." Internationally, the greatest influence has come from three Americans, Gene Cooper, Otis Redding and Aretha Franklyn. He also learned a lot about arrangements from American music.

Vincent feels strong links with his African ancestry and notes the clear connection of Jamaican musicians with Africa, especially as seen in the use of the drums. He believes Jamaicans should be proud of where their ancestors come from and should be singing about the experiences they have gone through. He finds no conflict between his fundamentalist Christian upbringing and the Rastafarianism from which reggae came. In his words:

Rastafarians, Christians, all are based on the same

thing; there is one God; people call him by different names, but there is one God regardless of race, etc. Is God teach us to make music.

In a period of sixteen years Vincent has played with three groups, including the Stone Fire band which he joined in 1985 when it was started by Keith Foote, the creative Jamaican owner of The Little Pub who took a previous band on tour to Germany.

Stone Fire, a group of four musicians and singers, plays for six nights a week, four hours a night, at The Little Pub, one of the most popular venues for both tourists and locals in Ocho Rios. Two band members play instrumental only and two others, including Vincent who plays keyboard, both sing and play. The band plays dinner music first, then more lively music for dancing. Vincent arranges about 50% of their music. The band must cater to tourists with songs such as Yellow Bird, Big Big Bamboo and Matilda, as well as with international soft music, and some reggae and soca from Trinidad. Thus Vincent isn't able to focus on his own kind of reggae music. He says he has to compromise because of the demands of the marketplace and the audience; he wouldn't get a job unless he performed what tourists like.

The group is paid an amount agreed upon in advance. The members of the band have their own instruments -- lead and bass guitar, trap set and keyboard, but the club manager doesn't want to pay to rent their instruments, so they use instruments he provides. The sound equipment is owned by the manager and the band members take care of sound and lighting themselves. The group wears white outfits which cost them about $50. each.

All members of the group belong to the Jamaica Federation of Musicians and Vincent believes the union protects musicians in tourist industry jobs. He added that on tours it's better to be a union member as "it makes you legal."

The group has not yet made a recording but has already made a video in its role of backup group to The Mighty Digger show, an 'Afro Caribic Musical Extravaganza', produced twice a week by the club manager. They expect to produce a recording with the same show.

Between 1970 and 1976, Vincent, as a member of a band called Soul Defenders, made several recordings while working at Coxanne's, one of the oldest Jamaican recording studios. The group had no contract and no lawyer and the recordings, of course, were not copyrighted. Two recordings were released in the U.S. without the knowledge of the band. He learned about this when he was in the U.S. and people told

him of hearing his music and showed him the labels. (One recording was on the label Money Disc). Further, a deejay at a radio station invited him for an interview because the deejay knew songs that Vincent and the group had recorded. Vincent was no longer working for Coxanne's and has had no remuneration for the music played abroad.

The Soul Defenders were ripped off a second time when an Englishman took them to Britain and, among other things, the BBC produced a video of the group. They were told that they would receive £35 each every time the video was used, but they had no contract and can only assume that the Englishman is pocketing the proceeds.

Vincent later had problems with another Jamaican studio, Treasure Isles, owned by Sonja Pottinger. His group did songs on her label and then saw some of the songs in the U.S. when visiting there. On the positive side, Vincent has written songs for other artists, including a Jamaican woman who sings in Canada, and has been paid for these.

Vincent's aim is to write and arrange classical reggae songs for good singers so as to make it on the international scene. He wants to "sing about roots and to the oppressed people, not just in Jamaica." He has the songs and singers but not the finances to proceed. And he complained about the payola that is necessary at both radio stations and record shops. His past experience has been disillusioning and made him wary about the music business. He concludes that

> Our music is gold, but we don't seem to know it. Some countries have natural gold and silver, and we have reggae and we aren't mining it properly.

The Copyright Problem

There is probably no other national music industry which is so extensive and vibrant but has so little legislation to protect the artists involved. In the words of a Jamaican lawyer in a letter to Jamaica's Sunday Gleaner newspaper on September 21, 1986, "Jamaican record producers are probably the only producers in the world who think that by merely spending their money they become entitled to copyright in the songs composed by artistes with whom they work."[3] According to the Gleaner's popular music columnist, Howard McGowan, "producers are getting into the business to get rich: not because they love the music or have a flair for it" (Sept. 21, 1986).

Except for very inexperienced recording artists, most

of the 24 artists interviewed, including the three discussed in detail above, said that the greatest need of Jamaica's authors, composers and performers is for new copyright legislation.

Jamaica's only copyright legislation is an archaic 1911 Copyright Act modelled on Britain's Copyright Act of that era. (Britain's most recent Copyright Act is from 1965). In addition, Jamaica is not a member of any international copyright convention, neither the Berne Convention for the Protection of Literary and Artistic Works (1886) which has been revised several times, the most recent revision being at Paris (1971), nor the Universal Copyright Convention of 1952 also revised at Paris in 1971. This means that Jamaican works are usually not protected in other countries.

For over fifty years Jamaica has had an agency of the Performing Rights Society (PRS) which was established in England in 1914 as an Association of Authors, Composers, and Publishers of Musical Works. It seeks to collect Performing Right royalties for its members. Under existing copyright laws in Jamaica, a person who causes the performance or re-performance of a copyrighted work is liable to the copyright owner. From time to time the PRS, acting for and on behalf of copyright owners in the music industry, has taken successful action in the Jamaican courts to see that these rights are enforced.[4]

In addition, Britain's Mechanical Copyright Protection Society Limited (MCPS) licences the recording and re-recording of many musical works in the United Kingdom, the Commonwealth and the Republic of Ireland. It also seeks to collect royalties on the sales of recordings. A figure of six and one-quarter percent is authorized by the 1965 Copyright Act in England and operates when the parties are member of the England based Society. However Jamaica is still governed by the 1911 Copyright Act, Section 19(3) of which provides for only five percent on the ordinary retail selling price. Jamaica did not increase its rate to six and one quarter percent in 1928 as did Britain.

Furthermore, according to Jamaican lawyer Gayle Nelson, by current practice Jamaican authors and composers usually receive less than five percent. In the early 1970's when records were sold at $1.00 each, the producers paid five percent. However, as the price of records increased, the producers have not maintained the five percent royalty. In addition to that, it has become common practice for the producer to record a "version" of the song on the flip side of the work and then pay the writer only two and one half percent despite the fact that the version is a plagiarism of the music of the number one side. The producer keeps the

two and one half percent for the flip side, usually laying claim to ownership thereof.[5]

Gayle Nelson notes that problems experienced by recording artists as a result of the lack of updated copyright legislation are created by both fellow authors, composers, and performers and by handlers of their work (whether companies or individuals). Nelson describes the authors, composers and performers who appropriate other people's material for their own use as plagiarists. The situation in Jamaica is exacerbated by the fact that the country is not a member of any international copyright conventions. According to both Nelson and many of the recording artists interviewed, the plagiarist in Jamaica is often the 'producer'. In Nelson's words,

> The 'producer' has the rhythm track of the original work which he tends to regard, quite wrongly, as his property although he properly owns the tape. He might employ someone to add to the original work; or he may use a 'mixer' (a studio engineer) to change the music. Then, he will foist on the public what he represents to be an altogether new 'sound.'

The anger of Jamaican recording artists with this and other problems in the system was captured in the words of a musician who was not one of the case studies above and who asked to remain anonymous:

> Some of the people at the head are making a lot of bread from the system. If a new copyright law is enforced, they wouldn't be able to take other people's material as they do now and use it. They aren't willing to take the risk of having a new copyright law because they would lose.

It is painful to see artists for whom music is their life so hurt both psychologically and financially by the recording industry system. Some of their problems in marketing their talents could have been averted if they were more sophisticated and less trusting, but their environment does not encourage this. Change is long overdue in a system which is discouraging the talent and killing the spirit even of artists who have proved their worth in the international market.

NOTES

1. Research for this paper was conducted by the author as part of the ICYC (International Communication and Youth Culture Consortium), a research team of about 40 scholars from over 20 countries which is investigating the interaction of youth and local/national/international popular music in various cultures.

2. 'Music industry needs help,' letter to Jamaica's Sunday Gleaner, Sept. 21, 1986 by Lloyd A.W. Stanbury, Attorney-at-law.

3. Lloyd A. W. Stanbury, Attorney-at-law, p.6A.

4. Harold C.W. Brady, "Reception in Caribbean not illegal," in The Sunday Gleaner, January 4, 1987. Brady is an attorney-at-law and legal advisor to Jamaica Broadcasting Corporation.

5. "The Copyright Problem," in The Sunday Gleaner, November 17, 1985.